IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

WEDNESDAY, THE 17TH OCTOBER 2007 / 25TH ASWINA 1929

WP(C).No. 27314 of 2007(B)

PETITIONER:

SMT. P.S.SUJATHA, NURSING ASSISTANT,
MEDICAL CENTER, GURUVAYUR DEVASWOM,
GURUVAYUR P.O., GURUVAYUR-680101,TRICHUR DIST.
R/AT ELAKKATTIL HOUSE, "NEELANJANAM", IRINGAPURAM,
PUTHANPALLY P.O., GURUVAYUR.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENTS:

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1. THE ADMINISTRATOR, GURUVAYUR DEVASWOM,
GURUVAYUR-680101M TRICHUR DISTRICT.

2. THE MANAGING COMMITTEE,
GURUVAYUR DEVASWOM, GURUVAYUR-680101,
REPRESENTED BY ITS SECRETARY.

3. THE COMMISSIONER,
GURUVAYUR DEVASWOM, OFFICE OF THE GURUVAYUR
DEVASWOM COMMISSIONER, TRIVANDRUM.

4. THE MEDICAL SUPERINTENDENT,
MEDICAL CENTER, GURUVAYUR DEVASWOM,
GURUVAYUR-680101, TRICHUR DISTRICT.

BY SRI. U.K. RAMAKRISHNAN, SC
ADV. SRI.U.K.RAMAKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J.

W.P.(C). NO. 27314 OF 2007

Dated this the 17th day of October, 2007

J U D G M E N T

Petitioner is a Nursing Assistant discharging her functions in the Guruvayoor Devaswom Medical Centre from 1.2.1989. By Ext.P1 dated 10.2.2003 certain transfers and posting of Attenders were ordered by the Administrator. Apparently, one Balakrishnan, an Attender who was discharging his duties in the hospital, was transferred to the Vyjayanthi Book Stall. It seems that there was dearth of Attenders and consequently the Administrator ordered that seniormost Nursing Assistant can be asked to discharge the function of an Attender in the matter of issuance of OP tickets etc. The Medical Superintendent was directed to take appropriate steps in that regard. Ext.P2 is the proceedings of the Administrator inter alia relating to the conduct of the OP counter in the Medical Centre and the necessity to collect registration fee. The Nursing Assistant in the OP counter was asked to take over duties regarding the registration of patients, who come to the Medical Centre, and issuance of cards to such persons, by Ext.P3 dated 28.5.03. Consequent to Ext.P2, it was made clear by the Administrator that registration of OP cards

should be done by the Senior Nursing Assistant in the day time and the security guard in the night time. By Ext.P4, the Commissioner by way of a communication to the Administrator, dealing with the issue of creation of more posts of Attenders, stated that for the present the functions of an Attender in the OP counter may be discharged by the Nursing Assistant itself and the question of creating posts of Attenders shall be decided after the committee, constituted for the purpose of making recommendations in the matter of creation of posts in the Devaswom, submits a report and an appropriate decision is taken in that regard. It seems that from 2003 till recently the petitioner, who is the seniormost Nursing Assistant in the Medical Centre, has been discharging the functions of an Attender in the OP counter in the Medical Centre as well. Petitioner's grievance stems out of the fact that by Ext.P5 order dated 26.7.07, two Watchmen in the Devaswom were directed to be deployed at the Medical Centre to attend the functions of Attender also. According to the petitioner, she has been looking after the functions of Attender since 2003. Functions of an Attender in the Medical Centre require certain technical acumen also. The persons who have been functioning as Watchmen even if given charge as Attenders, should not be

permitted to function in such capacity in the Medical Centre where the petitioner is functioning as the seniormost Nursing Assistant. By Ext.P7, the Medical Superintendent relieved the petitioner from the duties of the OP counter consequent upon persons being deputed to function as Attenders as per Ext.P5. Thus, the action taken by the respondents, as evidenced by Exts.P5 and P7, is challenged in this writ petition.

2. A statement has been filed by the 1st respondent in which it is pointed out that under Ext.P1 work arrangement, due to dearth of sufficient number of Attenders, the petitioner who was functioning as a Nursing Assistant was asked to discharge the functions of an Attender also. Under Ext.P5 a general decision was taken by the Administrator to make use of the services of 13 Watchmen and two such Watchmen have been posted as Attenders on a work arrangement and accordingly those two Attenders have been deployed to work in the Medical Centre. The functions of the petitioner as a Nursing Assistant have not been interfered with in that regard. Since the petitioner contends that she draws the salary of Nursing Assistant, she cannot be aggrieved by two other persons being deputed as Attenders in the Medical Centre.

3. I have heard learned Senior counsel Sri. K.P.Dandapani on behalf of the petitioner and the learned counsel Sri. U.K.Ramakrishnan on behalf of the respondents.

4. What took place under Ext.P1 was an internal arrangement to look after the affairs of Devaswom. Due to insufficient number of Attenders the petitioner, who was functioning as seniormost Nursing Assistant, was also asked to look after the duties of an Attender. This was consequential upon the person functioning as an Attender in the hospital being transferred to another section. The Devaswom could have, at that point of time, put another Attender in charge of the OP counter in the hospital. They did not do so. As stated above, for lack of sufficient number of Attenders, instead of putting another Attender to look after the OP counter, petitioner who is the seniormost Nursing Assistant was asked to do so. Petitioner accepted the same. But, significantly what took place under Ext.P1 was only a temporary work arrangement on account of administrative exigencies. This continued till 2007. When it was possible for the Devaswom to requisition services of more number of Attenders, they have deployed two of them in the Medical Centre.

5. I am not able to find out any grievance in so far as the petitioner is concerned when two other persons are being directed to look after certain duties of Attenders of the Medical Centre. After all, the situation was so, prior to Ext.P1 when Sri. Balakrishnan mentioned therein was looking after the same duties. At any rate petitioner's duties have not been curtailed. Her service conditions are not altered. Her functioning is not interfered with in any manner. Petitioner cannot be aggrieved by Ext.P5 which only denotes that additional duties being discharged by her in the OP counter by way of registration of patients and distribution of cards will now be looked after by two persons.

6. Learned counsel for the petitioner submits that Ext.P4 contemplated the arrangement under Ext.P1 to be continued till the committee constituted to make recommendations to several posts in the Devaswom comes out with a report and an appropriate decision is taken by the Devaswom. I cannot read Ext.P4 as conferring any right on the petitioner. The same constitutes only an internal administrative arrangement and cannot in any manner either abridge or enlarge the conditions of service and rights of the petitioner. Be that as it may, it was perfectly open to the Devaswom to requisition

services of Watchmen and deploy two of them as Attenders to the Medical Centre.

I am not in a position to discern any right much less any enforceable right for the petitioner to continue the arrangement under Ext.P1. The writ petition is bereft of merit and it is accordingly dismissed.

V.GIRI, JUDGE

vps